

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Terrence Wright El, #505358 (NCDC),)	
)	C/A No. 3:12-17-MBS
Petitioner,)	
)	
vs.)	ORDER
)	
Butch Jackson,)	
)	
Respondent.)	
_____)	

Petitioner Terrence Wright El is an inmate in custody of the North Carolina Department of Corrections. Petitioner was convicted in April 1995 for murder and other crimes committed in Graham County, North Carolina. Petitioner was sentenced to life in prison. Petitioner also was convicted in March 1999 in Charleston County, South Carolina, for murder and burglary, and was sentenced to life in prison. Petitioner was returned to North Carolina to serve his sentence subsequent to his South Carolina conviction.

Petitioner filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 on January 10, 2012, alleging that he is being held unlawfully. In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Joseph R. McCrorey for pretrial handling. The Magistrate Judge reviewed the § 2254 petition pursuant to the provisions of the Anti-Terrorism and Effective Death Penalty Act of 1996 and applicable precedents. On February 2, 2012, the Magistrate Judge filed a Report and Recommendation in which he recommended, among other things, that the § 2254 petition be dismissed because the court lacks in personam jurisdiction over Petitioner. Petitioner filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has

no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court may accept, reject, or modify, in whole or in part, the Report and Recommendation or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has thoroughly reviewed the record. The court adopts the Report and Recommendation and incorporates it herein by reference. Petitioner’s § 2254 petition for writ of habeas corpus is dismissed without prejudice and without requiring Respondent to file a return..

CERTIFICATE OF APPEALABILITY

A certificate of appealability will not issue absent “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). A prisoner satisfies this standard by demonstrating that reasonable jurists would find that any assessment of the constitutional claims by the district court is debatable or wrong and that any dispositive procedural ruling by the district court is likewise debatable. Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003); Rose v. Lee, 252 F.3d 676, 683-84 (4th Cir.2001). The court concludes that Petitioner has not made the requisite showing.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
Chief United States District Judge

Columbia, South Carolina
February 29, 2012.

NOTICE OF RIGHT TO APPEAL

Petitioner is hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.